

REMARKS/ARGUMENTS

In the Office Action, the Examiner issued a restriction requirement alleging that the application claims thirteen (13) distinct inventions (Groups I-XIII).

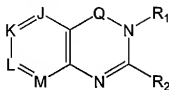
1. Pending Claims

As a preliminary matter, Applicants note that the Office Action indicates that claims 1-46 are pending in the present application. However, the present application was originally filed with a total of 49 claims. Since none of the originally filed claims have been cancelled or withdrawn, Applicants believe that the Office Action is in error and that claims 1-49 are currently pending.

2. Election in Response to Restriction

Pursuant to 37 C.F.R. § 1.142, Applicants hereby elect Group XIII wherein J= K= L= M= CR₁₂ and Q is CO, CS or C=NR₉ (claims 1-49, in part) with traverse. No claims are being withdrawn or cancelled. All of the pending claims now read on the elected subject matter.

In the Office Action, the Examiner also required an election of a single disclosed species. Applicants hereby elect the following species:



XXXVII

wherein

Q is CO;

J is CR₁₂ where R₁₂ is hydrogen;

K is CR₁₂ where R₁₂ is halo;

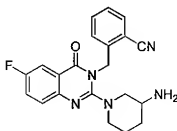
L is CR₁₂ where R₁₂ is hydrogen;

M is CR₁₂ where R₁₂ is hydrogen;

R_1 is $-ZR_m$, where Z is a moiety providing 1 atom separation between R_m and the ring to which R_1 is attached, and R_m is a substituted or unsubstituted aryl; and

R_2 is $-UV$, where U is a moiety providing 3 atom separation between V and the ring to which R_2 is attached and V comprises a basic nitrogen atom that is capable of interacting with a carboxylic acid side chain of an active site residue of a protein.

By way of example, Example 6 falls within the elected species (*see* Specification at page 115).



Applicants also reserve the right pursuant to 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of the present application.

3. Traversal of Examiner's Restriction

Applicants traverse the Examiner's thirteen-way restriction of the application on the grounds that the basis for restriction pursuant to MPEP §803 has not been met.

An application may properly be required to be restricted to one of two or more claimed inventions *only if*:

1. the inventions are independent or distinct as claimed; *and*
2. the search and examination of the entire application places a serious burden on the examiner.

MPEP §803. Accordingly, restriction is only proper when both elements are satisfied.

Applicants traverse the Examiner's narrow restriction requirement, and submit that search and examination of a different combination of current groups would not place a serious

burden on the Examiner. For the Examiner's consideration, Applicants hereby propose a modified restriction which results from combining the current groups in a different manner such that each of the proposed new group's structural features are well adapted for being searched and examined.

Applicants submit that the following proposed modified restriction and the new group that Applicants wish to elect is reasonable, well suited for examination, and does not place an undue search burden on the Examiner.

A. Proposed New Restriction

Applicants propose a modified restriction as follows:

New Group A (claims 1-49, in part) consists of compounds wherein K is CR₁₂; Q is CO, CS or C=NR₉; and J, L and M are each CR₁₂ or N.

New Group B (claims 1-49, in part) consists of compounds wherein K is CR₁₂; Q is SO or SO₂; and J, L and M are each CR₁₂ or N.

New Group C (claims 1-49, in part) consists of compounds wherein K is N; Q is CO, CS or C=NR₉; and J, L and M are each CR₁₂ or N.

New Group D (claims 1-49, in part) consists of compounds wherein K is N; Q is SO or SO₂; and J, L and M are each CR₁₂ or N.

Applicants would elect New Group A based on this modified restriction.

B. Applicants' proposed modified restriction is reasonable

It is a common practice when conducting chemical structure searches to designate variables in particular positions of the molecule and thereby obtain structures containing the different features represented by those variables in a single search. When a given group has a reasonable number of variables, a search encompassing those variables can be routinely performed that returns a manageable number of compounds and references to be considered without undue burden.

The modified restriction is based on two factors. First, the modified restriction results from the understanding that all of the pending claims require that at least one of K and L is CR₁₂

where R_{12} is not hydrogen. Accordingly, it is reasonable to restrict the claims as to whether K is CR_{12} or L is CR_{12} . Applicants note that Groups I-III, VIII, XI and XII as provided in the Office Action do not satisfy this criterion and are therefore improper. Second, the modified restriction takes into account that Q can provide either a carbon atom or a sulfur atom as part of the ring system. Using these two criteria as the basis of restriction results in only four groups, as described in detail below.

In view of the commonality of the structures of the proposed groups, Applicants submit that such search will produce a manageable number of references that can be considered without undue burden on the Examiner. Furthermore, it is reasonable for such structures to be examined together.

C. Balancing the burden on the Examiner and the Applicants

The thirteen way restriction that the Examiner proposes would require Applicants to file at least an additional twelve divisional applications if the Applicants are to protect the inventions as currently claimed. If the proposed modified restriction is adopted, the number of divisional applications that the Applicants would have to file would be significantly reduced. Applicants understand adopting the modified restriction increases the burden on the Examiner; however, Applicants respectfully request that the Examiner balance the burden on the Examiner in examining a slightly larger group of compounds with the burden on the Applicants to be able to prosecute the inventions currently claimed in the application with a reasonable number of applications. Applicants believe the modified restriction reasonably balances that burden while separating the compounds along lines that are consistent with the inventions and convenient for searching and examination.

3. Request for Reconsideration

In light of the foregoing remarks, Applicants respectfully request the Examiner to withdraw the thirteen way restriction requirement between current Groups I-XIII, adopt the modified restriction that Applicants proposed, and search new Group A.


CONCLUSION

Applicants earnestly believe that they are entitled to a letters patent, and respectfully solicit the Examiner to expedite prosecution of this patent application to issuance. Should the Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,

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